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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,367	12/06/2000	Stephen P. Fracek JR.	98006/16UTL	8329
23873	7590	12/02/2003	EXAMINER	
ROBERT W STROZIER, P.L.L.C			SCHIFFMAN, JORI	
PO BOX 429			ART UNIT	
BELLAIRE, TX 77402-0429			PAPER NUMBER	
			3679	

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/731,367

Applicant(s)

FRACEK ET AL.

Examiner

Jori R. Schiffman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s): \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kersting (1983) in view of timeclockplus.com (www.timeclockplus.com) and in further view of Hamlin et al. (US 6477504).

Regarding claim 1, Kersting discloses a system on a computer network for medical students for tracking and verifying various activities. The specific components of a GUI, database, logon, student, staff, clinician, and faculty subsystems would be obvious to one of ordinary skill in the art to include since they are the basic components of a network system of this form. Kersting fails to disclose time in and time out routines for time stamping a user's activity. Timeclockplus.com teaches the use of a computerized system for tracking an employee's work hours. Using the Internet Archive Wayback Machine (www.archive.org), it was found that the Timeclockplus.com main page was first made available to the public on February 9, 1999 and is therefore prior art. It would have been obvious at the time the invention was made to a person of ordinary skill in the art to include a time clock system in the system of Kersting so a more accurate record can be kept on each individual student. Kersting also fails to disclose a survey

system. Hamlin teaches surveys being well known as a “research solution to obtain the necessary information within the client’s given constraints” (col. 1, l. 49-56). It would have been obvious at the time the invention was made to a person of ordinary skill in the art to include a survey for student feedback about the service provided in Kersting as disclosed in Hamlin to provide information about the success of the system so improvements may be made for a better overall performance.

As to claim 2, it would have been obvious at the time the invention was made to a person of ordinary skill in the art to include a separate survey for each different user that can access the system since each person may have different functions available after they logon.

Regarding claim 3, modified Kersting discloses the specific time clock functions.

Referring to claims 4-6, it would have been obvious at the time the invention was made to a person of ordinary skill in the art to include different functions on the system depending upon the particular user since each user performs different functions, i.e. students record observations and staff members review students’ progress.

In regards to claims 7, 8, 11, and 12, Kersting discloses the system residing on a server connected to the Internet and the system web-based.

As to claims 9, 10, 13, and 14, the method of entering, updating, and retrieving data would be obvious to any user of the system.

### *Response to Arguments*

3. Applicant argues that Kersting's clinical information system "relates to a system implemented on a stand-alone computer 'without linking to other university networks'" and therefore "Kersting clearly teaches away from a clinical information system implanted on a fully integrated computer network system such as the Internet". In response, the Examiner disagrees because, according to Kersting's abstract, third paragraph, "stand-alone systems *can* be used by a department or program without linking to other university networks" (emphasis added). This does not mean the system *cannot* operate with other networks. According to Merriam-Webster's Collegiate Dictionary Tenth Edition, the definition of stand-alone is "operating or capable of operating independently of a computer system". Kersting's system is obviously *capable* of operating without a computer system, but would also be *capable* of operating with a computer system. Therefore, the rejection is deemed proper and maintained.

### *Conclusion*

4. Applicant's declaration necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jori R. Schiffman whose telephone number is 703-305-4805. The examiner can normally be reached on M-Th, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on 703-308-1159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-1113.

Jori R. Schiffman  
Examiner  
Art Unit 3679

JS

  
Lynne H. Browne  
Supervisory Patent Examiner  
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